

December 6, 2010

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, RM-11592

Dear Ms. Dortch:

Cellular South, Inc. (“Cellular South”) submits this *ex parte* in order to correct several distortions of fact and mischaracterizations of Cellular South’s advocacy in the December 1, 2010 *ex parte* filed by Verizon Wireless (“Verizon”).¹ Given its control of one-third (1/3) of the wireless market, Verizon certainly has sufficient incentive to protect its market position through zealous advocacy. But, many of the assertions in Verizon’s *ex parte* are simply incorrect. As such, Cellular South must restore the record.

Verizon correctly notes that Cellular South has been active in the proceeding requesting interoperability, both as a member of the 700 MHz Block A Good Faith Purchasers Alliance (“GFPA”)² and as a member of the Rural Cellular Association (“RCA”). However, Verizon incorrectly suggests that the sole motivation for Cellular South’s advocacy is to ensure the availability of any Band 12 equipment.³ In doing so, Verizon overlooks or ignores the first page of the Petition for Rulemaking which requests:

a rulemaking to assure that consumers will have access to all paired 700 MHz spectrum that the Commission licenses, to act so that the entire 700 MHz band will develop in a competitive fashion, and to adopt rules that prohibit restrictive equipment arrangements that are contrary to the public interest.⁴

¹ *Ex Parte* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, RM-11592 (filed December 1, 2010).

² Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, RM-11592 (filed September 29, 2010) (“Petition for Rulemaking”).

³ *Ex Parte* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, RM-11592 (filed December 1, 2010).

⁴ Petition for Rulemaking at 1.

Cellular South's advocacy has consistently noted that interoperability will promote the existence and the affordability of equipment and devices, as well as the ability to deploy LTE networks faster and with greater coverage than would otherwise be possible.⁵

Moreover, interoperability would provide our nation's first responders with multiple redundant broadband networks in the event of a catastrophic event or whenever there is a need for increased communications capacity. Additionally, the Congressional Research Service ("CRS") has concluded that interoperability across the 700 MHz spectrum would lower the average cost of public safety devices by \$2500 per unit.⁶ This means that our nation's volunteer fire departments and rural sheriffs' departments could have affordable access to the same equipment as our nation's largest police and fire departments.

Verizon further misinterprets the connection between Cellular South's LTE announcement and the statement of Peter Cramton that "Lower A Block spectrum winners have insufficient scale to develop affordable end user devices that would work on the A Block."⁷ While Verizon would like Cellular South's announcement to contradict Mr. Cramton's analysis, the unfortunate fact is that Cellular South is not acquiring affordable end user devices for its LTE deployment. Rather than contradicting Mr. Cramton's analysis, Cellular South's LTE announcement validates it.

While it is true that Cellular South stated it is not "economically feasible" to obtain devices without the economies of scale that would result from interoperability in the 700 MHz space⁸, Verizon confuses "feasibility" with "possibility" in conveying Cellular South's position.⁹ As Cellular South's recent announcement showed (see attached press release), it is not "impossible" to acquire Band 12 devices. However, a lack of required interoperability has forced smaller carriers into taking actions against their best economic interests in order to deliver 4th Generation wireless services to consumers. Cellular South's LTE announcement is one example. Participation in Verizon's "LTE in Rural America" program is another.

If requested, Cellular South would welcome the opportunity to present its LTE pricing data to the FCC alongside Verizon's pricing data to show the disparity between Cellular South's LTE equipment and device pricing and Verizon's LTE equipment and device pricing. Cellular South is confident that this information would be a valuable data point for the Commission as it considers interoperability and other competitive issues. We are certain that the discrepancy in pricing will speak for itself as a testament to the value of scale in the device and network equipment acquisition process.

⁵ Petition for Rulemaking. See also Comments of Cellular South, RM-11592 (March 31, 2010) and attachment.

⁶ See, e.g., L. Moore, "Public Safety Communications and Spectrum Resources: Policy Issues for Congress," Congressional Research Service Doc. No. R40859 (September 1, 2010) ("The participation of commercial carriers in developing and deploying, for example, a common radio interface, is expected to put the costs of public safety radios in the same price range as commercial high-end devices (\$500). By contrast, interoperable radios for the narrowband networks at 700 MHz cost \$3000 and up, each.")

⁷ *Ex Parte* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, RM-11592 (filed December 1, 2010).

⁸ *Ex Parte* Letter from Rebecca Thompson, General Counsel to the Rural Cellular Association, to Marlene H. Dortch, Secretary FCC, RM-11592 (filed November 11, 2010).

⁹ *Ex Parte* Letter from Tamara Preiss, Vice President, Federal Regulatory Affairs, Verizon, to Marlene H. Dortch, Secretary, FCC, RM-11592 (filed December 1, 2010).

Verizon's request to dismiss the Good Faith Purchaser Alliance's petition is meritless. In the 15 months since the Petition was filed, Cellular South's experience in acquiring 700 MHz equipment and devices provides further evidence in support of the need for interoperability across the 700 MHz bands. That evidence and the arguments previewed by this exchange could be better evaluated through the FCC's issuance of an NPRM on the GFPA petition. Cellular South again requests that the FCC issue a Notice of Proposed Rulemaking on the Petition.

Further, Cellular South renews its call for Verizon to end its anti-competitive and anti-consumer practices, and reasserts that 700 MHz interoperability is a good place to start.¹⁰

Sincerely,

/s/ Eric Graham

Eric Graham
Vice President, Strategic and Government Relations

Enclosure

cc: Ruth Milkman, Chief, Wireless Telecommunications Bureau
James Schlichting, Senior Deputy Chief, Wireless Telecommunications Bureau
Tom Peters, Chief Engineer, Wireless Telecommunications Bureau
David Goldman, Policy Advisor, Wireless Telecommunications Bureau
Tamara Preiss

¹⁰ Mike Dano, "Verizon blasts Cellular South's LTE plans, argues against federal oversight," FierceWireless, Dec. 2, 2010, <http://www.fiercewireless.com/story/verizon-blasts-cellular-souths-lte-plans-argues-against-federal-oversight/2010-12-02>.